



Delaware River Basin Commission

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SUPPLEMENTAL DETERMINATION OF THE EXECUTIVE DIRECTOR CONCERNING NATURAL GAS EXTRACTION ACTIVITIES IN SHALE FORMATIONS WITHIN THE DRAINAGE AREA OF SPECIAL PROTECTION WATERS

This determination supplements the Executive Director's Determination of May 19, 2009 ("2009 Determination") concerning natural gas extraction activities in shale formations within the drainage area of Special Protection Waters (SPW) insofar as that determination addressed "wells intended solely for exploratory purposes."

In my Determination of May 2009, I exercised the authority conferred on the Executive Director by section 2.3.5 B.18 of the Commission's *Rules of Practice and Procedure* (RPP) by directing all sponsors of natural gas extraction projects in shale formations within the drainage area of Special Protection Waters to obtain Commission approval before commencing such projects, notwithstanding that the thresholds for review established by the RPP were not exceeded. This action was based on my recognition that as a result of water withdrawals, wastewater disposal and other activities, natural gas extraction projects in shale formations could individually or cumulatively affect the water quality of Special Protection Waters by altering their physical, biological, chemical or hydrological characteristics.

My 2009 Determination that sponsors of natural gas extraction projects in shale formations must obtain Commission approval expressly did not cover "wells intended solely for exploratory purposes." Today, subject to the reservations set forth below, I am withdrawing that exclusion and extending the provisions of my 2009 Determination to include exploratory wells. That is, by this Supplemental Determination, I am specially directing all natural gas well project sponsors, *including the sponsors of natural gas well projects intended solely for exploratory purposes*, that they may not commence any natural gas well project for the production from or exploration of shale formations within the drainage area of Special Protection Waters without first applying for and obtaining Commission approval. For the purpose of this Determination, any natural gas well drilled in or through shale is assumed to be targeting a shale formation and is subject to this Determination, unless the project sponsor proves otherwise. All other aspects of my 2009 Determination remain in effect.

My action today recognizes the risks to water resources, including ground and surface water that the land disturbance and drilling activities inherent in any shale gas well pose. In light of the Commission's May 5, 2010 decision to finalize natural gas regulations before considering project approvals, this Supplemental Determination removes any regulatory incentive for project sponsors to classify their wells as exploratory wells and install them without Commission review before the Commission's natural gas regulations are in place. It thus supports the Commission's goal that exploratory wells do not serve as a source of degradation of the Commission's Special Protection Waters.

Reservation for Existing State-Approved Projects. Where entities have invested in exploratory well projects in reliance on my May 2009 Determination and information from staff, there are countervailing considerations that favor allowing these projects to move ahead. I am informed that since May of 2009 the Pennsylvania Department of Environmental Protection (PADEP) has issued a limited number of natural gas well drilling permits within the Delaware River Basin targeting shale formations, while the New York State Department of Environmental Conservation has not issued any natural gas well permits targeting shales in the Basin since that date. In contrast to the thousands of wells projected to be installed in the Basin over the next several years, the risk to Basin waters posed by only the wells approved by PADEP since May 2009 are comparatively small. Not only are these wells subject to state regulation as to their construction and operation, but they continue to require Commission approval before they can be fractured or otherwise modified for natural gas production. In light of these existing safeguards and the investment-backed expectations of the sponsors of these projects, this Supplemental Determination does not prohibit any exploratory natural gas well project from proceeding if the applicant has obtained a state natural gas well permit for the project on or before the date of issuance set forth below.

A copy of this Supplemental Determination will be posted on the Commission's website, and additional copies will be mailed directly to those project sponsors and potential project sponsors that the Commission has identified.

Any person adversely affected by this action may request a hearing by submitting a request in writing to the Commission Secretary within thirty (30) days of the date set forth below, in accordance with the RPP.

Carol R. Collier

Carol R. Collier, Executive Director

Dated: June 14, 2010